

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

IN RE: DONALD SCHMELCHER

Debtor

Case No. 11-61607

Chapter 7

**EX PARTE APPLICATION TO REOPEN CLOSED BANKRUPTCY
CASE WITH WAIVER OF COURT COSTS AND FEES**

The affirmation of James F. Selbach, made under penalties of perjury, states as follows.

1. I represent the above captioned Debtor and I make this affirmation in support of the *ex parte* application of the Debtor, pursuant to 11 U.S.C. § 350(b) and Federal Rule of Bankruptcy Procedure 5010, for an order of this Court reopening the above captioned case. 11 U.S.C. § 350(b) provides that a closed “case may be reopened . . . to accord relief to the debtor.”
2. The Debtor filed a petition for relief under Chapter 7 of the Bankruptcy Code on July 22, 2011. The Court issued a discharge order on October 25, 2011 and the case has been closed.
3. The Debtor now desires to reopen his case to file a motion for violation of the discharge .
4. Shortly after receiving his discharge the Debtor began receiving regular billing statements from HFC. The first was received on November 28, 2011 followed by others received on December 29, 2011, January 28, 2012, February 27, 2012, May 29, 2012, and June 28, 2012 all of which are being attached hereto and made a part herein as Exhibit A. After receiving the bill dated June 28, 2012 the Debtor called HFC to notify them once again that he had filed bankruptcy and surrendered the home. HFC stopped sending the Debtor bills after this conversation.
5. In January 2014 the loan servicing rights were transferred from HFC to Caliber Home Loans, Inc. (“Caliber”). The Debtor received notices from both HFC and Caliber confirming this transfer,

copies of which are being attached hereto and made a part herein as Exhibit B.

6. On February 12, 2014 the Debtor received a letter from Caliber, a copy of which is being attached hereto and made a part herein as Exhibit C. This letter concerned the Debtor. The Debtor called Caliber to inform them of the bankruptcy case. A representative from Caliber explained to the Debtor that the letter was standard procedure and advised the Debtor to not worry about it.
7. Caliber continued to attempt to collect the debt despite this conversation. The Debtor received demands for payment on March 14, 2014, April 2, 2014 (2), and April 15, 2014(2) copies of which are being attached hereto and made a part herein as Exhibit D.
8. Pursuant to 28 U.S.C. § 1930(f)(1), and the Bankruptcy Court Miscellaneous Fee Schedule of the Judicial Conference of the United States no fee is required to reopen the case because this is the enforcement of the rights of the Debtor under the terms of the discharge.

WHEREFORE, based upon the foregoing, it is respectfully requested that this Court grant leave for the Debtor to reopen the Chapter 7 bankruptcy case, and for any further relief that the Court may deem just and proper.

DATED: Syracuse, New York
May 21, 2014

SELBACH LAW FIRM, PLLC

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